(a) whether the process of delimitation of Parliamentary and Assembly constituencies has been completed by the Delimitation Commission;

(b) if not, the States and Union Territories in which the process has not been completed;

(c) the States and Union Territories where the process is on;

(d) the States and Union Territories where the process has not commenced as yet;

(e) by when the new proposals will come into force;

(f) whether Government propose to enforce it in the States/UTs where the process has been completed; and

(g) if so, the details thereof?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) to (d) No, Sir. The Delimitation Commission has completed the process of delimitation of Parliamentary and Assembly Constituencies in respect of the States of Goa, Kerala, Mizoram, Rajasthan, Tripura and West Bengal and the Union Territory of Pondicherry. In respect of all other States and Union Territories the work of delimitation is in progress, except for the State of Manipur where the work of the delimitation has been stopped in pursuance of the Orders of the Guwahati High Court (Imphal Bench) dated 14.12.2005 in Writ Petition (PIL) No. 16 of 2005.

(e) to (g) The Government proposes to give effect to the delimitation notifications so far issued after the delimitation exercise in respect of several other States/Union Territories are completed rather than in isolation.

Pleading of cases by litigants

817. SHRI RAJKUMAR DHOOT: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that in the event of strike by lawyers, the litigants can henceforth plead their own cases and cross examine the witnesses in criminal trials in Courts;

(b) if so, the details thereof; and

(c) the reaction of Bar Associations thereto?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) to (b) On 10.01.2006, the full court of the High Court of Delhi passed

a resolution in the following terms:—

"A Section of lawyers at Tis Hazari Court, Delhi, have been on strike from 02.01.2006 against the creation of the Rohini Court, Delhi. On 04.01.2006 these lawyers went to the Supreme Court of India and shouted abusive slogans against Hon'ble the Chief Justice of India, Hon'ble the Chief Justice, Delhi High Court, and others. On 06.01.2006 at the inauguration of the Rohini Court, they again went to Rohini and shouted abusive slogans and created nuisance. Thereafter they have been obstructing the working of the Tis Hazari and Rohini Court.

These lawyers have been committing violence and agitations as is evident from the reports received from the Distt. Judge, Tis Hazari and Judge-In-Charge, Rohini Court, Delhi. They have been beating other lawyers who wanted to work, and catching them by collars and pulling them out of the court when these lawyers wanted to enter the court rooms, to argue their cases.

Earlier the striking lawyers declared that they will strike up to 10.01.06 and hence this court was maintaining restraint and it also asked the police to maintain restraint as the High Court did not want to aggravate the situation.

On 09.01.2006, report came from the Distt., Judge, Tis Hazari Court, that a Resolution has been passed that the Strike would continue up to 18.01.06 and there is no certainty that the strike will not continue even thereafter. This strike is causing great hardship to the litigant public whose urgent applications, such as bail, injunction applications, cannot be heard because of the strike. Litigants/witnesses etc. come from distant places at heavy expenses, who are being told that their cases cannot be taken up due to the strike. This is most unfair to the litigant public.

This is a sovereign institution and we will maintain our authority at all costs. No one can be allowed to hold the judiciary at ransom. The Court cannot standby and see the institution paralized indefinitely.

The Court has exercised great restraint from 02.01.2006 till today and had thought that the strike of Tis Hazari lawyers will be over today, *i.e.* 10.01.2006, but now it appears that there is a section of the Tis Hazari lawyers who are determined to continue the strike indefinitely. This state of affairs cannot be tolerated any longer. The lawyers must know that enough and everything has a limit.

The Supreme Court has repeatedly held that the lawyer's strike are illegal and that effective steps should be taken to stop the growing

tendency. In Paadurang Duttaram Khadekar *Vs.* Bar Council of Maharashtra (1284) 2 SCC 556, Tahil Ram Issar Das Sadarangam *Vs.* Ramchand Issuradas Sadarangam 1993(3) SSC 256, Common Clause A Registered Society *Vs.* Union of India (1996) 3 SSC 19, Sajeev Dutta *Vs.* Ministry of Information & Broadcasting (1995) 3 SSC 619, Indian Council of Legal & Advice *Vs.* Bar Council of India 1995(1) SSC 732, K. John Koshi *Vs.* Dr. Tarai Eshwar Prasad Shaw (1998) 8 SCC 024; Mahabir Prasad Singh *Vs.* Jacks Aviation (P) Ltd. 1999(1) SCC 37 and Ex. Captain Harish Uppal *Vs.* Union of India (2003) 2 SSC 45, it was held by the Supreme Court that the advocates have no right to go on strike. The Courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all courts to go on with matters on their boards even in the absence of lawyers. In other words, courts must not be privy to strikes or calls for boycotts. It was held that if a lawyer, holding a vakalatnama of a client, abstains from attending court due to a strike call, he shall be personally liable to pay costs, which shall be in addition to damages which he might have to pay to his client for the loss suffered by him. In spite of repeated pronouncements by the Supreme Court, the Lawyers' strikes have continued unabated.

The judiciary is accountable to the public. The dispensation of justice must not stop for any reason. The strike by lawyers have lawered the image of the judiciary in the eyes of the general public.

The Supreme Court held that right to speedy justice is included in Article 21 of the Constitution of India. In A.R. Antulay *Vs.* R.S. Nayak (1992) 1 SSC 225 and Rai Deo Sharma *Vs.* State of Bihar (1998) 7 SCC 507; it was held that the litigant has a right to speedy justice. The lawyers' strikes, however, are denying these rights to the citizens in the State.

In Manoj Kumar *Vs.* Civil Judge, Deoria (Writ Petition No. 33778 of 1997 decided on 10.10.1997) a Division Bench of the Allahabad High Court observed; "Before parting with this case, we would like to mention that it is deeply regrettable and highly objectionable that there are strikes in District Courts in U.P. on flimsy and frivolous pretext, and some, district Courts function only for about 60 or 70 days in a year. This is a shocking state of affairs, and will no longer be tolerated by this court. The judiciary and bar are both accountable to the public and they must behave in a responsible manner so that cases are decided quickly and thus the faith of the public in the judiciary is maintained. Surely, the public has a right to expect this from us. We therefore, issue a general mandamus to all the judicial officers in all Distt. Courts in U.P. that if the lawyers go on strike

the judicial officers must, despite the strike of lawyers, sit in court and pass orders in cases before them even in the absence of the counsels. If the lawyers disturb the functioning of the Court, the District Judge shall contact the police and the police will give all protection to the judges and the cases will not be adjourned merely because of the lawyers' strike. People in this State are fed up with lawyers' strikes and this state of affairs must now end. The lawyers must realize that litigants, witnesses, etc. often come from distant places at heavy expense and it is most improper that they have to go away because of strikes by lawyers."

In M/s. Suresh Chandra Varshney & Co. *Vs.* State of U.P. (Writ Petition No. 15342 of 2000 decided on 30.03.2000), this court observed that "It has come to our notice that in about half of the District Courts in the State of U.P. the lawyers are on strike for about a month and they are no permitting any judicial authority to work. This is deeply regrettable and highly objectionable. The judiciary exists for the people and not for the lawyers and judges. In our view the attitude of the lawyers of the District courts and Commissioners of U.P. who are on strike for the last about one month is most irresponsible. This act of the lawyers will no longer be tolerated by this Court and nobody will be allowed to hold the judiciary to ransom. A Division Bench of this Court of Manoj Kumar *Vs.* Civil Judge, 1997(3) UPLEEC 1767 has held that if lawyers go on strike even then courts must sit and pass judicial orders even in absence of the lawyers and if the functioning of the court is disturbed by anybody police help must be taken by the Distt. Judge or other Presiding Officer. The people of the State are fed up with lawyers' Strike and they are suffering greatly. The lawyers must understand that litigants, witness etc. Come to Court from far off places often at heavy expenses but they find that the courts are closed just because the lawyers are on strike. This is most unfair to the litigants or their witnesses. We, therefore, direct the Judges of all District Courts, Commissioners, and other Presiding Officers of the Courts or authorities, whether judicial or quasi judicial, hearing the cases and pass orders even in the absence of the lawyers who are on strike. If anybody disturbs the working of the courts the District Judge, Collector, Commissioner or the Presiding Officer of the Court or Tribunal or authority shall call the police and prevent them from doing so. The lawyers must know that enough is enough".

In Siddhartha Kumar *Vs.* Upper Civil Judge, Ghazipur (1998) 1 UPLBEC 587 the Division Bench observed 'Nothing more is required to be added on this score except that those Presiding Officers (though their

number is very little) who have developed vested interest in the strikes to be dealt with sternly. They became party to engineer a strike on particular days. One of us (Justice O.P. Garg), on the basis of long standing experience of the working of the District Courts, may venture to say that some Presiding Officer become restive if for a long spell of time there is no strike. Feelers are sent to the members of the Bar to go on strike so that the monotony and drudgery be broken to have a respite. The period of strike is not meant for rejoining, jubilation or merry-making. Hereafter, the Presiding Officers shall not be granted any remission in their out-turn of work due to the strike by the lawyers. The period of strike days shall also be computed towards working days and the out-turn of work shall be calculated with reference...".

No one has a right to obstruct the administration of justice. An extraordinary situation demands extraordinary measures to be taken. Where the fundamental rights of the citizens are being grossly violated, the High Court as a guardian of Subordinate Courts and as a protector of 'rights of the citizens' would not sit quiet and allow the situation to deteriorate. It is absolutely necessary that very strong measures should be taken to stop the growing tendency of lawyers' strikes. The Courts now feel that the time has come to take immediate effective and strong steps, to remedy the situation and, therefore, the Court has resolved that in order to curb the tendencies of strikes by lawyers following steps/ measures may be taken:—

1. The Subordinate Courts shall not take cognizance of any resolution passed by the Bar Association to strike, and to stop judicial work. The District Judge concerned shall not entertain or circulate any such resolution amongst the Judicial Officers in his judgeship. The Judges shall sit in Court during Court hour and shall pass orders in the cases listed before them, whether the lawyers are present or not.

2. The Judicial Officers must strictly adhere to Court hour. They shall perform the entire judicial work on the dais, and shall not accept any request to rise, or to stop judicial work on the request of lawyers or litigants. In case lawyers do not attend to work the judicial officers shall proceed to work in the following manner:—

(A) Where the parties are willing they shall be heard personally and necessary orders shall be passed in case requiring no further evidence.

(B) In matters fixed for evidence parties shall be allowed to file documents and do examinations/cross examinations of witnesses, if they so desire.

(C) In all matters including suits, revisions, review, appeals (Civil and Criminal both), bails, urgent applications, etc. appropriate orders should be passed by the Judge even in absence of lawyers. Such an order can also be an order dismissing the case for a default if legally permissible.

(D) In criminal trials in the Court of Session or Magistrate the witnesses in attendance should be examined by the Public Prosecutor/Prosecuting Officer as the case be giving an option to the accused to either cross examine the witnesses himself or bear the expenses for recalling of witnesses for cross examination on the date(s) next to be given.

(E) The District Judges shall submit weekly report to the Court with regard to any incident, which may take place in the judgeship with compliance report of these directives.

(F) In case any Lawyer or group of lawyers or litigants creates indiscipline in the court or try to intimidate the judge or lawyers or obstruct court proceedings, the Judicial Officer concerned should immediately inform the District Judge, who shall immediately send for Police force and restore the functioning of the Court and initiate criminal proceedings against such lawyers. In case any damage is cost to the records or the court property, the District Judge shall immediately get a first information report of the incident lodged.

(G) The District Judges shall arrange for adequate police force to be kept in reserve in the judgeship, to be deployed for protection of the judicial officers, lawyers, litigants, court staff and the court property. If possible, video cameras should also be used.

(H) The District Judge should inform the names of the persons involved in disrupting the court proceedings to the High Court forthwith so that appropriate proceedings for contempt of court can be taken.

(I) The Judicial Officers shall not perform any judicial work in their chambers."

(c) The Bar has not called off the strike so far.